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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,480	12/07/2000	William C.Y. Lee	G&C 139,146-US-U1	2461
22462	7590	03/29/2005	EXAMINER	
GATES & COOPER LLP HOWARD HUGHES CENTER 6701 CENTER DRIVE WEST, SUITE 1050 LOS ANGELES, CA 90045			TSEGAYE, SABA	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/733,480

Applicant(s)

LEE ET AL.

Examiner

Saba Tsegaye

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-24.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).


10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


JOHN PEZZLO
PRIMARY EXAMINER

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Continuation 3a: The Applicant has amended claims 17 and 22 by adding a called party's and a calling party's, which changes the scope of the claims. The After Final amendment will not be entered because it raises new issues that would require further search and/ or consideration.

Furthermore, Examiner believes that the Palermo reference still reads on the claim invention. Applicant argues (Remarks, page 10-11) that Palermo does not suggest loading one of a plurality of vocoders into a processor of a called party's handset based on a particular type of vocoder used with a calling party's handset. The Palermo reference clearly discloses a communication between a transmitter and a receiver that can be read as a called party and a calling party. All processing of the information between reception or reproduction of speech and reception and transmission of radio frequency signal respectively is preformed in software. Further, Palermo discloses that the operation of the system of Fig. 8 is the same whether operating as receiver, transmitter or transceiver. The user or the operator selects (for example at a receiver) the waveform or waveforms that are to be used. In addition the operator or the user may switch from one waveform mode to another to communicate over different radio networks (a particular type of network (see column 1, line 55-column 2, line 8)). The same vocoder that is used at the transmitter has to be used at the receiver or the network will not work.

Further, the Applicant argues that Seippi does not teach transmitting a notification to a called party's network that a calling party's handset is calling from a particular type of network, and switching of a plurality of vocoders in the handset or any loading of a selected vocoder for execution in the handset. Examiner respectfully disagrees. It is respectfully submitted that the rejection is based on the combined teaching of the Seippi and Palermo references. Seippi teaches sending a call set-up message to setup a call between the first and second subscriber station and

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determining the type of network of the second station based on the call setup message. Palermo teaches selection or switching of a plurality of vocoders in the handset, as stated above, to match the vocoder used at the transmitter, so that the same vocoder is used at both the transmitter (calling) and receiver (called).